

RESPONSE TO RESTRICTION REQUIREMENT Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Docket No.	AERX-076CIP
	Application No.	10/649,376
	Confirmation No.	4605
	Filing Date	August 26, 2003
	Examiner	Kim, Christopher S
	Group Art Unit	3752

Sir:

This communication is submitted in response to the Election of Species Requirement dated April 3, 2007. The Examiner therein required election of one of the following species:

Species A, Figure 1;
Species B, Figure 3;
Species C, Figure 4; or
Species D, Figure 5.

The Applicants hereby elect Species B of Figure 3, with traverse.

The pending claims 1-26 are believed to encompass the embodiment of Figure 3.

The embodiments shown within Figures 1 and 4 are specific versions of the more general embodiment shown within Figure 3 where α is 0 and β is 90° . Within Figure 2 ϕ is shown and within Figure 1 a special case of ϕ is shown where ϕ is 90° .

Figures 1 and 5 can also be compared. The angle θ shown in Figure 4 is 0 in Figure 5.

Applicants point out that although the flow of liquid in the creation of aerosolized particles is only shown within Figure 1 such a flow and the formation of particles could be shown within all of the Figures 2, 3, 4 and 5. Making a search for methods such as those encompassed by claim 1 as well as the other claims 2-26 would require searching in the same classes and subclasses. The particular embodiments within the different figures would not be embodiments which would be separated into different classes and subclasses and as such require separate searches.

Applicants have responded by electing Species B of Figure 3. It is applicants position

that all of the claims 1-26 encompass Figure 3. To the extent the Examiner may require an additional election of specific claims applicants request the Examiner to focus attention on claims 1-3.

As stated in the MPEP §803, if search and examination of an entire application can be made without serious burden, the examiner must examine the entire application on the merits, even though the entire application includes claims to independent or distinct inventions. It is the Applicants' position that it would not be unduly burdensome to perform a search on all of the claims together in the present application. Accordingly, the Applicants traverse the restriction requirement.

The Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter or any subject matter disclosed in this application during the pendency of this application.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number AERX-076CIP.

Respectfully submitted,
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Date: 3/MAY/07

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